

OCT 23 2001

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FORM 2



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-107

AN ORDER to create CSB 2.27, relating to the scheduling of certain drugs under chapter 961, stats., the uniform controlled substances act.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

09-18-01 RECEIVED BY LEGISLATIVE COUNCIL.

10-16-01 REPORT SENT TO AGENCY.

RS:DD:jal;wu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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CLEARINGHOUSE RULE 01-107

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

See s. 961.41 (3g), (f), Stats., which applies to possession of gamma-butyrolactone, but which is not treated by this rule.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The fourth and fifth sentences in paragraph one of the department’s analysis repeat the first three sentences of that paragraph.

b. It is assumed that there is no counterpart in state law to a “list one chemical” under federal law and that is why the substance is being entirely removed from ch. 961, Stats.

**WISCONSIN DEPARTMENT OF
REGULATION & LICENSING**

Scott McCallum
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September 18, 2001

TO: Ron Sklansky, Director
Rules Clearinghouse
Wisconsin Legislative Council
1 East Main Street, Suite 401

FROM: Pamela A. Haack, Paralegal
Office of Administrative Rules
Department of Regulation and Licensing
Room 171, 1400 East Washington Avenue
(608) 266-0495

RE: Proposed Rule-Making Order of the Controlled Substances Board

Attached please find a proposed rule-making order of the Controlled Substances Board Department of Regulation and Licensing submitted under s. 227.15, Wis. Stats. These proposed rules relate to the scheduling of certain drugs under Chapter 691, Stats., the Uniform Controlled Substances Act. The proposed order contains citations to the statutory authority under which the board intends to adopt the proposed rules and a description of the effect of the proposal.

Please stamp or sign a copy of this letter to acknowledge receipt. Please call me at 266-0495 if I can be of any assistance to the Clearinghouse in reviewing this rule.

Thank you.

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CONTROLLED SUBSTANCES BOARD
CONTROLLED SUBSTANCES BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 01-)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.27, relating to the scheduling of certain drugs under chapter 961, Stats., the Uniform Controlled Substances Act.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 961.11 (1), 961.16 and 961.19, Stats.

Statutes interpreted: s. 961.14 (5) (ag), Stats.

Gamma-butyrolactone (GBL) is currently classified under state law as a schedule I drug, s. 961.14 (5) (ag), Stats. This chemical is only classified by DEA as a list one chemical. GBL is legitimately used for industrial, scientific research, food industry uses and other uses. GBL is currently classified as a schedule I controlled substance under state law, but is classified by the Drug Enforcement Administration (DEA) as a list one chemical. Legitimate uses for gamma-butyrolactone exist for industrial, scientific research, food industry uses and other uses. The Controlled Substances Board has received information that currently the federal Environmental Protection Agency (EPA) has approved the use of GBL as an industrial solvent. The objective of the rule is to delete the schedule I listing of GBL which will obviate the need for obtaining a special use authorization under s. 961.335, Stats. *Repetitive*

Drugs that are classified as "controlled substances" under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Currently, persons having otherwise legitimate possession of GBL for legitimate uses are at risk of prosecution under the Wisconsin Controlled Substances Act in Chapter 961, Wis. Stats. Distributors of GBL located outside of this state and end users located within this state do not currently have the benefit of a limited industrial use exemption for the possession and use of GBL. With the delisting of GBL, the illicit use of GBL would still be prohibited since it is a violation of federal law as GBL is classified as a list one chemical. However, the mere possession and legitimate use of GBL in the state will no longer be a violation of the Uniform Controlled Substance Act.

TEXT OF RULE

SECTION 1. CSB 2.27 is created to read:

CSB 2.27 Deletion of gamma-butyrolactone from schedule I. Section 961.14 (5) (ag), Stats., is amended to read:

Section 961.14 (5) (ag) Gamma-hydroxybutyric acid (commonly known as gamma hydroxybutyrate or "GHB") ~~and gamma butyrolactone.~~

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Controlled Substances Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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9/18/01